

Makenzie Pauly, Pro Se
1840 41st Ave. Ste. 102-386
Capitola, CA 95010
(831) 212-4118
paulytwo.0@gmail.com

August 17, 2021

The Honorable Susan Illston
United States District Court, Northern District – San Francisco
450 Golden Gate Ave., 17th Floor, Courtroom 1
San Francisco, CA 94102

Re: *Pauly v. Stanford Health Care*
Case No.: 18-cv-05387-SI

Dear Judge Illston:

Plaintiff is requesting the Court's assistance in resolving a discovery matter in dispute regarding Defendant's subpoenas for Plaintiff's privileged medical records as follows:

"Deposition Subpoenas for Production of Business Records":

SUBPOENA #1 "ALL DOCUMENTS, MEDICAL RECORDS, OFFICE RECORDS, EMERGENCY ROOM RECORDS, SIGN-IN SHEETS, MEDICAL TESTS, INPATIENT AND OUTPATIENT CHARTS AND RECORDS, RADIOLOGICAL REPORTS AND TEST RESULTS. ALL OF THE ABOVE PERTAINING TO THE CARE, TREATMENT OR EXAMINATION OF MAKENZIE PAULY (DOB: 09/25/1998)."

SUBPOENA #2 "x-RAYS, MRI'S and CT Scans: Any and all x-ray films, MRI's, CT scans and any other type of film pertaining to the care, treatment or examination pertaining to MAKENZIE PAULY (DOB: 09/25/1998) from the first date to, and including, the present."

SUBPOENA #3 "BILLING RECORDS All itemized statements of billing charges, invoices, records of adjustments and/or write-offs, payments and credits, explanation of benefits, balances due and insurance records. All of the aforementioned pertaining to the care, treatment or examination of MAKENZIE PAULY (DOB: 09/25/1998) from the first date to, and including, the present."

Defendant never made a discovery request for the information they are seeking in **SUBPOENA #1** and **#2**, but did request the information they are seeking in **SUBPOENA #3** in their Request for Production of Documents and Things, Set One (RFP), No. 2, on June 9, 2021, that stated, "DOCUMENTS evidencing any claimed special damages, including, but not limited to, medical and hospital charges, medical devices, loss of earnings or earning capacity, drugs or medications, and records of payment of the above items, as a result of the alleged violation(s) of EMTALA by Defendant, STANFORD HEALTH CARE. ". On July 9, 2021, Plaintiff objected to RFP, No. 2, stating, "Plaintiff objects to request #2 on the basis that it is irrelevant because Plaintiff has not claimed any special damages." Defendant's counsel did not follow this Court's Standing Orders to meet and confer, instead, they subpoenaed Plaintiff's records (**SUBPOENA #3**), specifically "medical and hospital charges".

In accordance with the Standing Orders of this Court; Plaintiff, Makenzie Pauly initiated a meet and confer with opposing counsel regarding the discovery dispute of these subpoenas by emailing them a letter on August 17, 2021, describing Plaintiff's position. After a good faith effort to come to a resolution failed, Plaintiff and

opposing counsel chose to seek the Courts assistance. Due to the short timeframe before the Further Case Management Conference on August 20, 2021, Plaintiff chose to file this statement separately.

ISSUES:

Federal Rules of Civil Procedure 26(b)(1) limits a party's discovery to non-privileged, relevant information that is related to their defense. Federal Rules of Evidence §994 protects a patient's physician-patients privilege. California Evidence Code §996 states that a patient's privilege is waived narrowly to information related/relevant to the claims tendered by the patient.

Since Plaintiff has not put her entire medical history at issue in her claims, but narrowly specified her claims to the time of the EMTALA related events, her entire medical history, pre-dating and post-dating the incident, remains privileged.

The following courts have held to the narrow approach to waiver: *Tylo v Superior Court* 55 Cal.App4th 1379; *Britt v. Superior Court* 20 Cal 3d 844, 864, 849 and *EEOC v Peters' Bakery* Case No. 13-cv-04507-BLF (ORD. GRANTING MOT. FOR RELIEF, Dkt 47, p. 7:10-16).

The Constitutional right to privacy is strongly defended by the courts (see *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1013), and is maintained despite filing a lawsuit (see *In re Lifschutz* (1970) 2 Cal.3d 415, 435)). "The party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims." *Tylo v Superior Court* 55 Cal.App4th 1379 [Citation omitted]. Accordingly, if the Defendant wishes to obtain Plaintiff's constitutionally protected medical information, they have the responsibility of showing how it is directly related to their defense.


Since EMTALA is a strict liability statute (see *Jackson v. East Bay Hosp.* 980 F (N.D.Cal.1997)). Supp. 1348 and *Bryant v. Adventist Health Systems/West* 289 F.3d 1162, 1165 (9th Cir. 2002), which is different from Medical Malpractice (see *Moses v. Watsonville Hospital* 5:15-cv-00932-BLF Dkt. 69, P.3:20-21), quality of care is not at issue (see *id* at, p. 2:23-24). Unrelated medical records are of no value in determining whether SHC violated EMTALA requirements on December 10, 2008. The only relevant medical records are those that pertain to the timeframe of the events at issue in this case.

Defendant has been in possession of the records that pertain to the ED visits at SHC and Plaintiff has supplied Defendant with the relevant Sutter Hospital records in her initial disclosures on July 9, 2021. Therefore, Defendant is in possession of all relevant medical records pertaining to Plaintiff's claims.

Defendant's **SUBPOENA #3** is seeking privileged third-party information belonging to Plaintiff's parents and Plaintiff never claimed special damages, therefore, Plaintiff's billing information, medical receipts and insurance information records are irrelevant to any possible defense in this case.

Enclosed, please find Defendant's discovery requests (RFP No. 2 and (3) Subpoenas) and Plaintiff's discovery responses (Response to Defendant's RFP No.2 and Meet and Confer Letter 08/16/21).

Plaintiff respectfully requests the Court's assistance in this discovery dispute in order to protect Plaintiff's privileged medical records from discovery.


MAKENZIE PAULY
Plaintiff, Pro Se

*** REGULAR MAIL ***



P.O. Box 93010, Long Beach, California 90809-3010
Phone: 1(800) 696-2511 Fax: 1(888) 696-2270

July 30, 2021

JOB #: 660794



MAKENZIE PAULY (IN PRO PER)
1840 41ST ST, # 102-386
CAPITOLA, CA 95010

Case Number: 18-CV-05387-SI
Case Caption: MAKENZIE PAULY vs. STANFORD HEALTH CARE

The attached copy of Subpoena(s) is/are submitted for your file concerning the above-entitled case and represents notification to you. Should you desire to receive an identical copy of the subpoenaed **RECORDS** submitted for your file, please contact our firm by one of the following methods:

1. Call **(888) 554-0900 extension 250**. Please leave a detailed message when calling after hours.
2. Fax a completed copy of this form to **(888) 696-2270**.
3. Order online at **www.macropro.com**. Select 'Opposing Counsel' from the menu.
4. Mail a completed copy of this form to our Records Request Department at:

Records Request Department
Macro-Pro, Inc.
P.O. Box 93010
Long Beach, CA 90809-3010

I agree to pay for the records and/or services rendered by Macro-Pro as indicated below:
Macro-Pro's fees per set of records: \$45.00 Basic Charge, \$0.25 per Page, \$15.00 for each CD/DVD,
\$10.00 for each Download and Shipping and Handling.

Please provide an identical copy of records from the following locations:

- (#1) ☐ SUTTER MEDICAL CENTER SACRAMENTO HIM ROI 2825 CAPITOL AVE BASEMENT SACRAMENTO, CA 95816
(#2) ☐ SUTTER MEMORIAL HOSPITAL RADIOLOGY 2801 L ST 2ND FLOOR SACRAMENTO, CA 95816
(#3) ☐ SUTTER MEMORIAL HOSPITAL CIOX HEALTH (BILLS) 2121 N. CALIFORNIA BLVD. STE 310 WALNUT CREEK, CA 94596

Please provide the above-noted records in the following format (check boxes):

- ☐ Paper Set
☐ CD-ROM
☐ Download

Email Address: _____ (required for downloads)

If films are obtained:

- ☐ Duplicate ☐ Call for Cost Approval ☐ No Films Needed

Signature _____

Print Name _____

Date _____

Telephone Number: _____ (Just in case we need to contact you)

Opposing MacPro (subp-010-p1)

Job # 660794-1

PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE	CASE NUMBER: 18-CV-05387-SI
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ATTACHMENT 3

ALL DOCUMENTS, MEDICAL RECORDS, OFFICE RECORDS, EMERGENCY ROOM RECORDS, SIGN-IN SHEETS, MEDICAL TESTS, INPATIENT AND OUTPATIENT CHARTS AND RECORDS, RADIOLOGICAL REPORTS AND TEST RESULTS. ALL OF THE ABOVE PERTAINING TO THE CARE, TREATMENT OR EXAMINATION OF MAKENZIE PAULY (DOB: 09/25/1998).

>> RE: MAKENZIE PAULY

BIRTH: 09/25/1998

JOB #: 660794-1 SUBP-025

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) CAROLYN L. NORTHROP, ESQ. SB# 237989 SCHUERING ZIMMERMAN & DOYLE, LLP 400 UNIVERSITY AVENUE SACRAMENTO, CA 95825 TELEPHONE NO: (916) 567-0400 FAX NO (916) 568-0400 E-MAIL ADDRESS ATTORNEY FOR STANFORD HEALTH CARE		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME: U.S. DISTRICT COURT, NORTHERN		
PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE		CASE NUMBER: 18-CV-05387-SI
NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)		

NOTICE TO CONSUMER OR EMPLOYEE**TO: MAKENZIE PAULY****1. PLEASE TAKE NOTICE THAT REQUESTING PARTY: STANFORD HEALTH CARE**

SEEKS YOUR RECORDS FOR EXAMINATION by the parties to this action on: 08/30/2021

The records are described in the subpoena directed to **witness**:

THE CUSTODIAN OF RECORDS FOR:

SUTTER MEDICAL CENTER SACRAMENTO, 2825 CAPITOL AVE, BASEMENT, SACRAMENTO, CA 95816-

A copy of the subpoena is attached.

2. IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED IN ITEM a. OR b. BELOW:

- a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the **witness** and the **deposition officer** named in the subpoena at least five days before the date set for production of the records.
- b. If you are not a party to this action, you must serve on the **requesting party** and on the **witness**, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the next page indicating whether you personally served or mailed the objection. The objection should **not** be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**

3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date: 07/30/2021

CAROLYN L. NORTHROP, ESQ.

(TYPE OR PRINT NAME)

/s/CAROLYN L. NORTHROP, ESQ.

(SIGNATURE OF ☐ REQUESTING PARTY ☒ ATTORNEY)**OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS**

1. ☐ I object to the production of all my records specified in the subpoena.
2. ☐ I object only to the production of the following specified records:
3. The specific grounds for my objection are as follows:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

JOB #: 660794-1 SUBP-025

PLAINTIFF/PETITIONER: MAKENZIE PAULY
 DEFENDANT/RESPONDENT: STANFORD HEALTH CARE

CASE NUMBER:
 18-CV-05387-SI

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☒ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Notice to Consumer or Employee and Objection** as follows:

a. ☐ **Personal Service.** I personally delivered the **Notice to Consumer or Employee and Objection** as follows:

(1) Name of person served:

(2) Address where served:

(3) Date served:

(4) Time served:

b. ☒ **Mail.** I deposited the **Notice to Consumer or Employee and Objection** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served: MAKENZIE PAULY (IN PRO PER)

(2) Address: 1840 41ST ST # 102-386

CAPITOLA, CA 95010

(3) Date: 07/30/2021

(4) Place: Long Beach, CA

(5) I am a resident of or employed in the county where the **Notice to Consumer or Employee and Objection** was mailed/deposited for delivery.

c. My residence or business address is: P.O. BOX 93010, LONG BEACH, CA 90809.

d. My phone number is: (562) 595-0900

Macro-Pro, Los Angeles County Registration #X-0086 and #2311

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/30/2021

SUSANA ARELLANO

(TYPE OR PRINT NAME OF PERSON WHO SERVED)



(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☐ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Objection to Production of Business Records** as follows (complete either a or b):

a. ON THE REQUESTING PARTY

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:

(ii) Address where served:

(iii) Date served:

(iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:

(ii) Address:

(iii) Date of mailing:

(iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

b. ON THE WITNESS

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:

(ii) Address where served:

(iii) Date served:

(iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:

(ii) Address:

(iii) Date of mailing:

(iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

3. My residence or business address is (specify):

4. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE

JOB #: 660794-1

MAKENZIE PAULY vs. STANFORD HEALTH CARE

Case No: 18-CV-05387-SI

Page 1 of 1

I am over the age of eighteen years and not a party to the within action; my business address is P.O. Box 93010, Long Beach, CA 90809; I am employed in Los Angeles County, California.

The Deposition Subpoena For Production of Business Records (to include Notice and Declarations as required by law) was served on the person/persons listed below, addressed as follows:

By Mail on 07/30/2021, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below. The documents would be placed in an envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United State Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Long Beach, California.

MAKENZIE PAULY (IN PRO PER)
1840 41ST ST # 102-386
CAPITOLA, CA 95010
Represents: Makenzie Pauly

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 30, 2021, in Long Beach, California.

SUSANA ARELLANO

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

COPY

JOB #: 660794-2

SUBP-010

ATTORNEY OR PARTY WITHOUT ATTORNEY CAROLYN L. NORTHROP, ESQ. SB# 237989 SCHUERER ZIMMERMAN & DOYLE, LLP 400 UNIVERSITY AVENUE SACRAMENTO, CA 95825 TELEPHONE NO: (916) 567-0400 FAX NO: (916) 568-0400 EMAIL ADDRESS: ATTORNEY FOR: STANFORD HEALTH CARE		FOR COURT USE ONLY CASE NUMBER: 18-CV-05387-SI
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME: U.S. DISTRICT COURT, NORTHERN		
PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE		
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS		

THE PEOPLE OF THE STATE OF CALIFORNIA, TO THE CUSTODIAN OF RECORDS FOR:

SUTTER MEMORIAL HOSPITAL, 2801 L ST, 2ND FLOOR, SACRAMENTO, CA 95816, PH:
(916) 887-5531

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To: MACRO-PRO, INC
 On: 08/30/2021 At: 08:00 AM
 Location: P.O. BOX 93010 LONG BEACH, CA 90809-3010

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a ☐ by delivering a true, legible and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b ☐ by delivering a true, legible and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows: **** SEE ATTACHMENT 3 ****
- ☒ Continued on attachment 3.
4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date Issued: 07/30/2021

CAROLYN L. NORTHROP, ESQ.
 (TYPE OR PRINT NAME)

/s/CAROLYN L. NORTHROP, ESQ.

(SIGNATURE OF PERSON ISSUING SUBPOENA)
 Attorney for STANFORD HEALTH CARE

(TITLE)

Job # 660794-2

PLAINTIFF/PETITIONER: MAKENZIE PAULY
DEFENDANT/RESPONDENT: STANFORD HEALTH CARE

CASE NUMBER:
18-CV-05387-SI

ATTACHMENT 3

X-RAYS, MRI's and CT Scans:

Any and all x-ray films, MRI's, CT scans and any other type of film pertaining to the care, treatment or examination pertaining to MAKENZIE PAULY (DOB: 09/25/1998) from the first date to, and including, the present.

>> RE: MAKENZIE PAULY

BIRTH: 09/25/1998

JOB #: 660794-2 SUBP-025

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) CAROLYN L. NORTHROP, ESQ. SB# 237989 SCHUERER ZIMMERMAN & DOYLE, LLP 400 UNIVERSITY AVENUE SACRAMENTO, CA 95825 TELEPHONE NO: (916) 567-0400 FAX NO (916) 568-0400 E-MAIL ADDRESS ATTORNEY FOR STANFORD HEALTH CARE		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME: U.S. DISTRICT COURT, NORTHERN		
PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE		
NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)		CASE NUMBER: 18-CV-05387-SI

NOTICE TO CONSUMER OR EMPLOYEE**TO: MAKENZIE PAULY**

1. PLEASE TAKE NOTICE THAT **REQUESTING PARTY: STANFORD HEALTH CARE**
 SEEKS YOUR RECORDS FOR EXAMINATION by the parties to this action on: 08/30/2021

The records are described in the subpoena directed to **witness:**

THE CUSTODIAN OF RECORDS FOR:

SUTTER MEMORIAL HOSPITAL, 2801 L ST, 2ND FLOOR, SACRAMENTO, CA 95816-

A copy of the subpoena is attached.

2. IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED IN ITEM a. OR b. BELOW:
- a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the **witness** and the **deposition officer** named in the subpoena at least five days before the date set for production of the records.
- b. If you are not a party to this action, you must serve on the **requesting party** and on the **witness**, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the next page indicating whether you personally served or mailed the objection. The objection should **not** be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**
3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date: 07/30/2021

CAROLYN L. NORTHROP, ESQ.

(TYPE OR PRINT NAME)

/s/CAROLYN L. NORTHROP, ESQ.

(SIGNATURE OF ☐ REQUESTING PARTY ☒ ATTORNEY)**OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS**

1. ☐ I object to the production of all my records specified in the subpoena.
2. ☐ I object only to the production of the following specified records:
3. The specific grounds for my objection are as follows:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

JOB #: 660794-2 SUBP-025

PLAINTIFF/PETITIONER: MAKENZIE PAULY
 DEFENDANT/RESPONDENT: STANFORD HEALTH CARE

CASE NUMBER:
 18-CV-05387-SI

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☒ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Notice to Consumer or Employee and Objection** as follows:

a. ☐ **Personal Service.** I personally delivered the **Notice to Consumer or Employee and Objection** as follows:

(1) Name of person served:
 (2) Address where served:

(3) Date served:
 (4) Time served:

b. ☒ **Mail.** I deposited the **Notice to Consumer or Employee and Objection** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served: MAKENZIE PAULY (IN PRO PER)
 (2) Address: 1840 41ST ST # 102-386
 CAPITOLA, CA 95010

(3) Date: 07/30/2021
 (4) Place: Long Beach, CA

(5) I am a resident of or employed in the county where the **Notice to Consumer or Employee and Objection** was mailed/deposited for delivery.

c. My residence or business address is: P.O. BOX 93010, LONG BEACH, CA 90809.

d. My phone number is: (562) 595-0900

Macro-Pro, Los Angeles County Registration #X-0086 and #2311

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/30/2021

SUSANA ARELLANO

(TYPE OR PRINT NAME OF PERSON WHO SERVED)



(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☐ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Objection to Production of Business Records** as follows (complete either a or b):

a. ON THE REQUESTING PARTY

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:
 (ii) Address where served:

(iii) Date served:
 (iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:
 (ii) Address:

(iii) Date of mailing:
 (iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

b. ON THE WITNESS

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:
 (ii) Address where served:

(iii) Date served:
 (iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:
 (ii) Address:

(iii) Date of mailing:
 (iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

3. My residence or business address is (specify):

4. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE

JOB #: 660794-2

MAKENZIE PAULY vs. STANFORD HEALTH CARE

Case No: 18-CV-05387-SI

Page 1 of 1

I am over the age of eighteen years and not a party to the within action; my business address is P.O. Box 93010, Long Beach, CA 90809; I am employed in Los Angeles County, California.

The Deposition Subpoena For Production of Business Records (to include Notice and Declarations as required by law) was served on the person/persons listed below, addressed as follows:

By Mail on 07/30/2021, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below. The documents would be placed in an envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United State Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Long Beach, California.

MAKENZIE PAULY (IN PRO PER)
1840 41ST ST # 102-386
CAPITOLA, CA 95010
Represents: Makenzie Pauly

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 30, 2021, in Long Beach, California.

SUSANA ARELLANO

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

COPY

JOB #: 660794-3

SUBP-010

ATTORNEY OR PARTY WITHOUT ATTORNEY CAROLYN L. NORTHROP, ESQ. SB# 237989 SCHUERER ZIMMERMAN & DOYLE, LLP 400 UNIVERSITY AVENUE SACRAMENTO, CA 95825 TELEPHONE NO: (916) 567-0400 FAX NO: (916) 568-0400 EMAIL ADDRESS: ATTORNEY FOR: STANFORD HEALTH CARE		FOR COURT USE ONLY CASE NUMBER: 18-CV-05387-SI
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME: U.S. DISTRICT COURT, NORTHERN		
PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE		
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS		

THE PEOPLE OF THE STATE OF CALIFORNIA, TO THE CUSTODIAN OF RECORDS FOR:

SUTTER MEMORIAL HOSPITAL, 2121 N. CALIFORNIA BLVD., STE 310, WALNUT CREEK, CA 94596,
 PH: (925) 278-7850

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To: MACRO-PRO, INC
 On: 08/30/2021 At: 08:00 AM
 Location: P.O. BOX 93010 LONG BEACH, CA 90809-3010

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a ☐ by delivering a true, legible and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b ☐ by delivering a true, legible and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c ☒ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*
3. The records to be produced are described as follows: **** SEE ATTACHMENT 3 ****
- ☒ Continued on attachment 3.
4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date Issued: 07/30/2021

CAROLYN L. NORTHROP, ESQ.

(TYPE OR PRINT NAME)

/s/CAROLYN L. NORTHROP, ESQ.

(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney for STANFORD HEALTH CARE

(TITLE)

Job # 660794-3

PLAINTIFF/PETITIONER: MAKENZIE PAULY
DEFENDANT/RESPONDENT: STANFORD HEALTH CARE

CASE NUMBER:
18-CV-05387-SI

ATTACHMENT 3

BILLING RECORDS

All itemized statements of billing charges, invoices, records of adjustments and/or write-offs, payments and credits, explanation of benefits, balances due and insurance records.

All of the aforementioned pertaining to the care, treatment or examination of MAKENZIE PAULY (DOB: 09/25/1998) from the first date to, and including, the present.

>> RE: MAKENZIE PAULY

BIRTH: 09/25/1998

JOB #: 660794-3 SUBP-025

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) CAROLYN L. NORTHROP, ESQ. SB# 237989 SCHUERING ZIMMERMAN & DOYLE, LLP 400 UNIVERSITY AVENUE SACRAMENTO, CA 95825 TELEPHONE NO: (916) 567-0400 FAX NO (916) 568-0400 E-MAIL ADDRESS ATTORNEY FOR STANFORD HEALTH CARE		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 450 GOLDEN GATE AVENUE MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME: U.S. DISTRICT COURT, NORTHERN		
PLAINTIFF/PETITIONER: MAKENZIE PAULY DEFENDANT/RESPONDENT: STANFORD HEALTH CARE		CASE NUMBER: 18-CV-05387-SI
NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)		

NOTICE TO CONSUMER OR EMPLOYEE**TO: MAKENZIE PAULY****1. PLEASE TAKE NOTICE THAT REQUESTING PARTY: STANFORD HEALTH CARE**

SEEKS YOUR RECORDS FOR EXAMINATION by the parties to this action on: 08/30/2021

The records are described in the subpoena directed to **witness**:

THE CUSTODIAN OF RECORDS FOR:

SUTTER MEMORIAL HOSPITAL, 2121 N. CALIFORNIA BLVD., STE 310, WALNUT CREEK, CA 94596-

A copy of the subpoena is attached.

2. IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED IN ITEM a. OR b. BELOW:

- a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the **witness** and the **deposition officer** named in the subpoena at least five days before the date set for production of the records.
- b. If you are not a party to this action, you must serve on the **requesting party** and on the **witness**, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the next page indicating whether you personally served or mailed the objection. The objection should **not** be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**
3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date: 07/30/2021

CAROLYN L. NORTHROP, ESQ.

(TYPE OR PRINT NAME)

/s/CAROLYN L. NORTHROP, ESQ.

(SIGNATURE OF ☐ REQUESTING PARTY ☒ ATTORNEY)**OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS**

1. ☐ I object to the production of all my records specified in the subpoena.
2. ☐ I object only to the production of the following specified records:
3. The specific grounds for my objection are as follows:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

Page 1 of 2

JOB #: 660794-3 SUBP-025

PLAINTIFF/PETITIONER: MAKENZIE PAULY
 DEFENDANT/RESPONDENT: STANFORD HEALTH CARE

CASE NUMBER:
 18-CV-05387-SI

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☒ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Notice to Consumer or Employee and Objection** as follows:

a. ☐ **Personal Service.** I personally delivered the **Notice to Consumer or Employee and Objection** as follows:

(1) Name of person served:

(3) Date served:

(2) Address where served:

(4) Time served:

b. ☒ **Mail.** I deposited the **Notice to Consumer or Employee and Objection** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served: MAKENZIE PAULY (IN PRO PER)

(3) Date: 07/30/2021

(2) Address: 1840 41ST ST # 102-386

(4) Place: Long Beach, CA

CAPITOLA, CA 95010

(5) I am a resident of or employed in the county where the **Notice to Consumer or Employee and Objection** was mailed/deposited for delivery.

c. My residence or business address is: P.O. BOX 93010, LONG BEACH, CA 90809.

d. My phone number is: (562) 595-0900

Macro-Pro, Los Angeles County Registration #X-0086 and #2311

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/30/2021

SUSANA ARELLANO

(TYPE OR PRINT NAME OF PERSON WHO SERVED)



(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS
 (Code Civ. Proc., §§ 1985.3, 1985.6)

☐ Personal Service ☐ Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. I served a copy of the **Objection to Production of Business Records** as follows (complete either a or b):

a. ON THE REQUESTING PARTY

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:

(iii) Date served:

(ii) Address where served:

(iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:

(iii) Date of mailing:

(ii) Address:

(iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

b. ON THE WITNESS

(1) ☐ **Personal Service.** I personally delivered the **Objection to Production of Records** as follows:

(i) Name of person served:

(iii) Date served:

(ii) Address where served:

(iv) Time served:

(2) ☐ **Mail.** I deposited the **Objection to Production of Records** in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:

(iii) Date of mailing:

(ii) Address:

(iv) Place of mailing (city and state):

(v) I am a resident of or employed in the county where the **Objection to Production of Records** was mailed.

3. My residence or business address is (specify):

4. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

Page 2 of 2

PROOF OF SERVICE

MAKENZIE PAULY vs. STANFORD HEALTH CARE

Case No: 18-CV-05387-SI

Page 1 of 1

I am over the age of eighteen years and not a party to the within action; my business address is P.O. Box 93010, Long Beach, CA 90809; I am employed in Los Angeles County, California.

The Deposition Subpoena For Production of Business Records (to include Notice and Declarations as required by law) was served on the person/persons listed below, addressed as follows:


By Mail on 07/30/2021, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below. The documents would be placed in an envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United State Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Long Beach, California.

MAKENZIE PAULY (IN PRO PER)
1840 41ST ST # 102-386
CAPITOLA, CA 95010
Represents: Makenzie Pauly

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 30, 2021, in Long Beach, California.

SUSANA ARELLANO

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1 practitioners of the healing arts, osteopaths, chiropractors, hospitals, clinics,
2 dentists, psychologists, psychiatrists, and counselors.

3 10. MEDICAL CARE includes all medical, dental, and psychological
4 treatment, therapy, counseling, consultation, and evaluation and testing done by
5 a HEALTH CARE PROVIDER.

6 **DOCUMENTS TO BE PRODUCED:**

7 1. Any and all photographs, videos, slides or motion pictures depicting,
8 at any stage, the injuries YOU have alleged in the Complaint.

9 2. DOCUMENTS evidencing any claimed special damages, including,
10 but not limited to, medical and hospital charges, medical devices, loss of earnings
11 or earning capacity, drugs or medications, and records of payment of the above
12 items, as a result of the alleged violation(s) of EMTALA by Defendant, STANFORD
13 HEALTH CARE.

14 3. Copies of any notes, calendars, diaries, or other writings, typing or
15 computer printouts done by YOU or anyone acting on YOUR behalf which set forth
16 any of the facts supporting the allegations in Plaintiff's Complaint or relate to the
17 MEDICAL CARE rendered by any doctor, therapist, or nurse to YOU, or any of YOUR
18 alleged injuries.

19 4. Any and all social media posts, including but not limited to Facebook,
20 Twitter, Instagram, regarding any of the facts supporting the allegations in YOUR
21 Complaint or relate to the MEDICAL CARE rendered by any doctor, therapist, or
22 nurse to YOU, or any of YOUR alleged injuries.

23 5. All written correspondence, including but not limited to letters,
24 emails, and text messages, from YOU, or anyone on YOUR behalf, to Defendant,
25 STANFORD HEALTH CARE, or any other HEALTH CARE PROVIDERS, concerning
26 the care, treatment, injuries or damages alleged in YOUR Complaint.

27 6. Any and all medical records in YOUR possession as referenced in
28 YOUR Initial Rule 26 Disclosure.

1 REQUEST FOR PRODUCTION NUMBER 1:

2 Any and all photographs, videos, slides or motion pictures depicting, at any stage, the
3 injuries YOU have alleged in the Complaint.
4

5 RESPONSE TO REQUEST FOR PRODUCTION NUMBER 1:

6
7 **Plaintiff objects to Request #1 as overly broad and exceeding the proportional**
8 **needs of the case.**
9

10 **Subject to and without waiving said objections, Plaintiff responds as follows:**

11
12 **Plaintiff has no photographs, videos, slides or motion pictures depicting any**
13 **injuries as referenced in the complaint.**
14

15 REQUEST FOR PRODUCTION NUMBER 2:

16 DOCUMENTS evidencing any claimed special damages, including, but not limited
17 to, medical and hospital charges, medical devices, loss of earnings or earning capacity, drugs
18 or medications, and records of payment of the above items, as a result of the alleged
19 violation(s) of EMTALA by Defendant, STANFORD HEALTH CARE.
20

21 RESPONSE TO REQUEST FOR PRODUCTION NUMBER 2:

22
23 **Plaintiff objects to request #2 on the basis that it is irrelevant because Plaintiff has**
24 **not claimed any special damages.**
25
26
27
28

Meet and Confer Letter

August 16, 2021

1840 41st Ave. Ste. 102-386
Capitola, CA 95010
(831) 212-4118
paulytwo.0@gmail.com

Carolyn Northrop
400 University Ave.
Sacramento, CA 95825-6502

Re: Pauly v. Stanford Health Care 18-cv-05387-SI

Dear Carolyn,

I have received your (3) Deposition Subpoenas for Production of Business Records sent on July 30, 2021, requesting the documents be provided by August 30, 2021. I am writing to meet and confer about these notices. This letter shall serve as my initial attempt to meet and confer as required by Judge Illston's Standing Orders regarding discovery disputes.

Below, I have included my objections to the subpoenas and supporting citations and hope that we can reach an amicable resolution in this discovery dispute, without the need for Court intervention.

My first objection is that your request is overly broad, irrelevant and seeks privileged information. You have improperly subpoenaed my records according to Federal and State law. Federal Rules of Civil Procedure 26(b)(1) limits a party's discovery to matters relating to their defense, not to the subject matter of the other party's medical history generally. "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, ..." FRCP 26 (b)(1). Similarly, the Federal Rules of Evidence protect patients' privileged information from being disclosed, "[T]he patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and physician if the privilege is claimed by: (a) The holder of the privilege;" Federal Rules of Evidence §994. California Evidence Code §996 describes when a patient's privilege is waived, "There is no privilege under this article as to a communication relevant to an issue concerning the condition of the patient if such issue has been tendered by: (a) The patient."

However, the Constitutional right to privacy is strongly defended by the courts (see *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1013), and is maintained despite filing a lawsuit (see *In re Lifschutz* (1970) 2 Cal.3d 415, 435)).

The waiver of privilege is limited only to my claims. (see *Tylo v Superior Court* 55 Cal.App.4th 1379; *Britt v. Superior Court* 20 Cal 3d 844, 849; *Britt v. Superior Court* 20 Cal 3d 844, 864 and *EEOC*

v Peters' Bakery Case No. 13-cv-04507-BLF (ORDER GRANTING MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE, Dkt 47, p. 7:10-16))

Since I have not put my entire medical history at issue in my claims, but narrowly specified my claims to the time of the EMTALA related events, my entire medical history, pre-dating and post-dating the incident, remains privileged. You are prohibited by law from subpoenaing privileged, non-discoverable information.

If you choose to pursue this course of discovery, you must show how this information is directly related to your defense, "The party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims." [Citation omitted] (*Tylo v Superior Court* 55 Cal.App4th 1379).

If you would like to obtain my constitutionally protected medical information, you must explain how it is relevant to your defense of my EMTALA claims, please.

Since EMTALA is a strict liability statute (see *Jackson v. East Bay Hosp.* (N.D.Cal.1997) 980 F. Supp. 1348 and *Bryant v. Adventist Health Systems/West*) 289 F.3d 1162, 1165 (9th Cir. 2002)), which is different from Medical Malpractice (see *Moses v. Watsonville Hospital* 5:15-cv-00932-BLF Dkt. 69, P.3:20-21), quality of care is not at issue (see *Moses v. Watsonville Hospital* 5:15-cv-00932-BLF Dkt. 69, p. 2:23-24). Unrelated medical records are of no value in determining whether SHC violated EMTALA requirements on December 10, 2008. The only relevant medical records are those that pertain to the timeframe of the events at issue in this case. You are in possession of the records that pertain to ED visits at SHC and I have supplied you with the relevant Sutter Hospital records in my initial disclosures on July 9, 2021.

Secondly, I object to the third subpoena that seeks "Billing Records" on the basis that it violates Judge Illston's Standing Orders regarding discovery disputes. On June 9, 2021, you sent your Request for Production of Documents, Set One, No. 2, which stated, "DOCUMENTS evidencing any claimed special damages, including, but not limited to, medical and hospital charges, medical devices, loss of earnings or earning capacity, drugs or medications, and records of payment of the above items, as a result of the alleged violation(s) of EMTALA by Defendant, STANFORD HEALTH CARE."

On July 9, 2021, I responded by objecting to the request by stating, "Plaintiff objects to request #2 on the basis that it is irrelevant because Plaintiff has not claimed any special damages."

When I objected to your discovery request, it became a discovery dispute. Judge Illston's Standing Orders clearly describe how to handle discovery disputes:

"[1] The parties shall meet and confer in person, or.... by telephone, to attempt to resolve their dispute informally... [2] If, after a good faith effort, the parties have not resolved their dispute, they shall prepare a concise joint statement of 5 pages or less, stating the nature and status of their dispute... If a joint statement is not possible, each side may submit a brief individual statement of 2 pages or less. [3] The... statements shall be filed... The Court will advise the parties regarding the need, if any, for more formal briefing or a hearing..."

You violated the discovery dispute orders by foregoing the meet and confer process, and the Court's review and instead served the subpoenas for medical billing 'charges' without the Court's permission.

Additionally, you are seeking privileged third-party financial records that belong to my parents, who are wholly complete and separate legal entities and are not parties in this case. Therefore, their financial records are not relevant to any possible defense.

I respectfully ask that you please withdraw your (3) subpoenas because they are illegal, against the Courts discovery disputes orders, overly broad, irrelevant and seek privileged information.

Please let me know if you would like to discuss this discovery issue further and we can schedule a time to talk.

Best Regards,

Makenzie Pauly